

18 December 2024

Dunedin City Council
PO Box 5045
DUNEDIN 9054

By email to: districtplansubmissions@dcc.govt.nz

SUBMISSION ON PROPOSED PLAN CHANGE 1 (PC-2024-1)

NAME OF SUBMITTER: KiwiRail Holdings Limited (KiwiRail)

ADDRESS FOR SERVICE: Level 1
Wellington Railway Station
Bunny Street
PO Box 593
WELLINGTON 6140

Attention: Allison Tindale

Ph: 027 287 3473

Email: environment@kiwirail.co.nz

KiwiRail submission on Plan Change 1

KiwiRail Holdings Limited (KiwiRail) is the State-Owned Enterprise responsible for the construction, maintenance, and operation of the national railway network. This includes managing railway infrastructure and land, as well as rail freight and passenger services within New Zealand. KiwiRail is also the Requiring Authority for land designated for 'Railway Purposes' (or similar) in District Plans throughout New Zealand.

KiwiRail's national railway network (which comprises of 3,700km of track, over 200 locomotives, 18,000 hectares of land and 900 buildings)¹ is a nationally and regionally significant infrastructure asset. The rail network is critical to the safe and efficient movement of freight and passengers throughout New Zealand, and forms an essential part of the national transportation network and the wider supply chain. New Zealanders have invested significantly in the rail network and it is a critical public asset.

The benefits of rail to the New Zealand economy were estimated to be \$3.3 billion to New Zealand each year in 2024, comprising approximately \$1 billion in Gross Domestic Product

¹

Half Year Annual Report 2024 and Unaudited Financial Statements for the Six Months Ended 31 December 2023 (KiwiRail, 2024) at page 4.



(GDP) benefits as well as \$2.3 billion of economic externality impacts². Transport modal shifts to more climate-friendly modes of transport, like rail, are critical to reduce carbon emissions. Substantial investments have been made and continue to be made in rail infrastructure and rolling stock assets. KiwiRail is actively pursuing the growth of its freight and passenger business.

KiwiRail Holdings Limited is the Requiring Authority for the designated corridor of the Main South Line (MSL), the Port Chalmers Branch and the Taieri Branch, which pass through the Dunedin District. The MSL connects to other train lines in the Canterbury region heading north and west. These assets form a key part of the KiwiRail network nationally. KiwiRail seeks to protect its ability to operate, maintain and upgrade these assets into the future.

To achieve this, KiwiRail is seeking a policy framework which appropriately provides for the maintenance, repair, upgrading and replacement of existing rail infrastructure in a range of locations. Whilst KiwiRail generally supports the intent of the plan change, KiwiRail has concerns that some of the proposed changes have unintended consequences on the rail network as a result of:

1. Different treatment of the road versus rail network. Both types of land transport face a similar range of issues regarding the maintenance of transport infrastructure. It is requested that more enabling provisions which apply to the road network, also apply to the rail network.
2. Changes to Acoustic Insulation requirements in the Central Business District, Warehouse Precinct and Harbourside zones, which includes land within 100m of the rail corridor. This increases the risk of reverse sensitive effects on the rail network. I have attached a copy of KiwiRail's Section 32 report for Noise and Vibration, which supports the relief requested in the table below.
3. Remapping of scheduled tree groups G082 and G083 to significantly increase the size of the tree groups protected. This increases the risk that trees will interfere with the safe and efficient operation of the rail network and increases the risk of damage to rail infrastructure from adjacent trees. KiwiRail is seeking the removal of these tree groups from the list of scheduled tree groups.

KiwiRail's submission on Proposed Plan Change 1 is set out in the attached table. In terms of relief sought, insertions are marked in **red bold** and **underlined**, while any recommended deletions of text are shown in **red italics** and **~~struck-out~~**. This colour helps to differentiate KiwiRail's recommended changes, from those proposed by Council officers to the Operative Provisions, which are shown in black **bold** and **underlined** for insertions and black ***italics and struck-out*** for deletions. All requested changes include any consequential changes to the Plan to link and/or accommodate the requested change in the stated, or alternate location.

KiwiRail is available to meet with the Council to discuss any elements of the comments provided within this table, or to provide any clarification that may assist in decisions on the changes requested.

² The Benefit of Rail to New Zealand, 2024, Ernst & Young, Prepared for the Australian Railway Association at page 1

Regards,



Allison Tindale
Senior RMA Advisor
KiwiRail Holdings Limited



Submission Number	Section of Plan	Specific Provision	Support/Oppose/ Seek Amendment	Reasons for Submission	Relief Sought (as stated or similar to achieve the requested relief)
Definitions					
	Definitions 1.4.1	Building Change Res7	Support	The amended definition for building is supported. The specification that movable buildings are a building, assists in plan interpretation. KiwiRail seeks that provisions in the District Plan which protect the safe and efficient operation of the rail network, apply to moveable as well as fixed buildings.	Retain Building Definition
	Definitions 1.4.1	Construction and Site Investigation Change Earth1	Support in part	<p>The amendment of the definition of construction to cover site investigation is supported, as it recognises that supporting activities can occur prior to the construction of buildings.</p> <p>It is suggested that the time limitation on earthworks as part of site investigations is removed from the definition. This limit is considered more appropriate to impose through a permitted activity condition, with provision made for the consideration of earthworks for site investigations, where the ground is reinstated more than 48 hours after initial disturbance. Concern is raised that the 48-hour time limit may not be appropriate for larger sites, such as transport corridors.</p>	<p>Amend Construction and Site Investigation definition</p> <p>The use or storage of plant, tools, gear, or materials or relocatable site offices either onsite or offsite as part one or more of the following: site investigation (including test pits or boreholes for the purpose of geotechnical, contamination, underground water, or hazard assessments; the erection, installation, repair, maintenance, alteration, dismantling or demolition of any building or structure; or site development. This definition includes all work form site preparation, investigation to site restoration, including the driving of piles for building foundations. It also includes earthworks as part of the site investigation providing that the ground is reinstated within 48 hours.</p>
	Definitions	Earthworks Change Earth1	Support	<p>The exclusion of earthworks "<i>where they are included as part of the definition of construction and site investigation</i>" is supported.</p> <p>The temporary nature of earthworks related to site investigation warrants a different treatment from general earthworks controls.</p>	Retain definition of Earthworks
	Definitions	Noise Sensitive Activities Change D16	Support	The replacement of ' <i>registered health practitioners</i> ' with ' <i>healthcare</i> ' is supported, as it recognises that different types of health care services are a noise sensitive activity.	Retain definition of Noise Sensitive Activities.
	Definitions	Operation, Repair and Maintenance of the Roothing Network Change TA4	Support	<p>The inclusion of 'the use of storage of materials, equipment or relocatable site offices either on-site or off-site' within this definition is supported. Transport related development and maintenance activities frequently requires the storage of materials and equipment in a range of locations.</p> <p>It is requested that the Council similarly extend the definition of the 'Operation, Repair and Maintenance of Rail Network' to explicitly include this activity.</p> <p>Paragraph 618 of the S32 report identifies that the purpose of the change was to review whether to provide for the use and storage of relocatable construction site offices, plant, tools gear or materials associated with "<i>the transport network</i>". The land transport network includes rail as well as roads.</p>	<p>Retain definition of Operation, Repair and Maintenance of the Roothing Network.</p> <p>Amend definition of Operation, Repair and Maintenance of the Rail Network</p> <p>The use of the railway for the operation of trains and the maintenance and minor upgrade of rail undertaken within land designated for railway purposes.</p> <p>For the sake of clarity, this includes:</p> <ul style="list-style-type: none"> • re-sleepering, re-railing, re-ballasting • grouting or repairs to the tunnel linings or rock faces • laying of new communications cables, power cables, installing signalling equipment or associated upgrades • routine maintenance of the track and rail structure, including in tunnels such as rail grinding, tamping, aligning the track and ballast cleaning • replacement of existing equipment such as signal boxes • installation of safety related signage and signals; and • installation of bells and lights and/or half arm barriers at level crossings. • the use and storage of materials, equipment or relocatable site offices either on site or off-site.

Submission Number	Section of Plan	Specific Provision	Support/Oppose/ Seek Amendment	Reasons for Submission	Relief Sought (as stated or similar to achieve the requested relief)
	Definitions	Temporary Activities Change Earth1	Support	The inclusion of site investigation in the specified list of temporary activities is supported, in recognition of the temporary duration of this activity.	Retain definition of Temporary Activities.
Strategic Direction					
	Strategic Direction	Policy 2.4.1.8 Change CP8	Support	The exclusion of this policy regarding the design of subdivision, for a resultant site required for infrastructure is supported.	Retain Policy 2.4.1.8
City Wide Activities					
	Temporary activities	4.3.2 Activity status table – temporary activities Change Earth1 Change TA4	Support	The identification of construction and site investigation as a permitted activity, subject to a new permitted standard regarding maximum duration, frequency and site restoration is supported. This is considered to provide an appropriate planning framework for construction and site investigation.	Retain Table 4.3.2.2 Activity status table – temporary activities
	Temporary activities	4.5.3.4 Performance standard for Construction and site investigation Change TA4	Support	The proposed limits on duration of construction and site investigation and timing of activities, as a permitted activity is supported. The identification of non-compliance with these requirements as a Restricted Discretionary activity is also supported. This activity status would allow for an appropriate assessment of the effects of temporary activities of longer duration (more than 20 weeks) or which occur at less sociable hours (after 6pm and Sundays).	Retain permitted standard 4.5.3.4
	Temporary activities	4.5.4.X Noise Construction and site investigation vibration Change TA3	Support	The vibration limits for a building housing a noise sensitive activity, and for other buildings (including scheduled heritage buildings) is supported.	Retain 4.5.4.X
	Temporary Activities	4.9.2 Assessment of all discretionary performance standard contraventions Change PHS6	Support	Reference to the activity being designed and operated to minimise, as far as practicable, adverse effects on the safety and efficiency of the transport network is supported.	Retain 4.9.2
	Temporary Activities	4.10.2 Assessment of non-complying performance standard contraventions Change PHS6	Support	Reference to the activity being designed and operated to minimise, as far as practicable, adverse effects on the safety and efficiency of the transport network is supported.	Retain 4.10.2
	Transportation	6.7.4 Setback from designated rail corridor Change CP3	Support	The deletion of buildings from the exclusion of the setback from the designated rail corridor is supported.	Retain 6.7.4.2(a)
Appendices					
	A1.3 Schedule of Trees Change Tree2 Change TreeX	G082 119 Ramrock Road, Waikouaiti Approx 331 km Main South Line (also known as Henry St, Oaks)	Oppose	The proposed new boundaries for oak tree group G082 are dramatically different from the existing boundary. The existing tree group is marked as a single green dot, whilst the revised mapping covers an approximately 920m length of rail corridor and includes 152 trees. The southern edge of the revised boundary is situated approximately 140m to the north of the existing dot marking the position of G082. The shape differences between the existing and proposed tree group boundaries are so great, as to justify the treatment of the proposed boundaries as a proposed addition to the tree schedule. A STEM assessment was carried out on the tree group in 2001. Trees were identified as being over 100 years of age and around 21-26m in height with a	Remove G82 from Schedule A1.3

Submission Number	Section of Plan	Specific Provision	Support/Oppose/ Seek Amendment	Reasons for Submission	Relief Sought (as stated or similar to achieve the requested relief)
				<p>circumference of 3.5 to 4.2m measured 1.2m above ground level. Trees were assessed as having an overall point value of 186.</p> <p>No site-specific information regarding this tree group is contained in the Section 32 assessment for this plan change. In addition to reliance on an old STEM assessment, KiwiRail has seen no evidence that potential impacts on rail infrastructure from the retention and remapping of this tree group has been considered.</p> <p>In contrast existing policy 2.4.1.2 identifies criteria for the identification of significant trees, which includes clause c(ii) <i>“any potential adverse effects, including risk of potential damage to existing infrastructure, buildings or structures”</i>.</p> <p>The operative policy regarding criteria for the scheduling of trees significantly varies from Policy 15.3.2 in the earlier Dunedin District Plan 2006, which did not include a reference to taking into account potential adverse effects from tree protection. KiwiRail’s understanding is that tree group G082 was added to the tree schedule in 2003, and would have initially been considered under criteria within Policy 15.3.2.</p> <p>The Operative District Plan recognises in existing policy 6.2.3.3 that trees next to the rail corridor may be inconsistent with the operation of the rail network. This policy requires shelterbelts and small woodlots and forestry to be setback a sufficient distance from <i>“railway lines to avoid or minimise, as far as practicable, the risk of trees falling across railway lines”</i></p> <p>Paragraph 1348 of the Section 32 report refers to the risk matrix used to assess the risk of potential damage to infrastructure from other scheduled trees and tree groups. It states <i>“scores up to 4 were considered low risk and the trees were retained for scheduling, and any trees with a risk score of 5 or higher were excluded from scheduling”</i>. KiwiRail is of the view that there is at least a possible likelihood of damage to infrastructure having a minor or greater impact, with unlikely events potentially having a moderate or greater impact. Both these scenarios have a risk rating of 6 in the matrix.</p> <p>KiwiRail is of the view that tree group G082 has not gone through an appropriate rescreening process that ensures the remapped tree group fits the criteria for scheduling identified in policy 2.4.1.2. Concern is raised that risk of damage to existing rail infrastructure, has not been given the same attention as potential risks to road infrastructure.</p> <p>The same types of issues applies to trees in the rail corridor as identified for other sites identified in Table 21 of the Section 32 report, which are proposed to be removed from the schedule, such as risks of trees being blown over in strong winds which could result in the temporary stopping of the rail network whilst trees are cleared, tree branches encroaching into the space needed for passing trains and roots damaging the rail track. The high speeds of trains and time taken to stop also increases the risk of damage. Paragraph 1388 of the Section 32 report correctly identifies that <i>“works that may be needed to remove or modify these trees or nearby infrastructure can be more efficiently undertaken without requiring a resource consent.”</i></p> <p>Concern is also raised that existing provisions in the District Plan regarding scheduled trees are too inflexible and rigid to adequately provide for the needs for rail infrastructure, especially when tree groups cover hundreds of meters and includes dozens of trees. Although Rule 6.3.2.2 in the Transport Chapter makes some provision for the ‘Operation, Repair and Maintenance of the Rail Network’ as a permitted activity, it is doubtful that this would cover tree trimming or removal,</p>	

Submission Number	Section of Plan	Specific Provision	Support/Oppose/ Seek Amendment	Reasons for Submission	Relief Sought (as stated or similar to achieve the requested relief)
				<p>unconnected to track maintenance. The likely need for resource consent is considered overly burdensome and inconsistent with Policy 6.2.1.1 which refers to enabling the “<i>operation, repair and maintenance of the rail network.</i>”</p> <p>Whilst existing policies 7.2.1.2 and 7.2.1.3 allows for the removal or modification of scheduled trees (with resource consent) where the work “<i>is necessary to avoid significant adverse effects on existing infrastructure</i>”, the time taken to prepare and assess such a resource consent, is likely to create a threat to the safe and efficient operation of the railway network, such as risk of temporary track closure. Notification rule 7.4 identifies that such a resource consent is likely to be publicly notified, whilst Rule 7.9 identifies a need for documentation by a suitably qualified arborist.</p> <p>Existing policy 7.2.1.4 and accompanying rule 7.5.2 identifies that earthworks, structures and site development activities need to be setback from a scheduled tree, or where appropriate use trenchless methods. Such a provision is unduly restrictive for a transport corridor, where activities associated with the operation, repair and maintenance of the rail network may require earthworks. Earthworks is not explicitly identified as falling within the definition of ‘Operation, Repair and Maintenance of the Rail Network’.</p> <p>The existing activity status for ‘Restricted Discretionary’ for removal of a scheduled tree that that is dead, in terminal decline or with extreme failure (Rule 7.3.2.1) is unduly restrictive for works within an identified transport corridor that has existed over for over 100 years, as is the existing activity status of Non-Complying for removal and other work on a scheduled tree that will lead to its death or terminal decline (Rule 7.3.2.3). Consideration needs to be given that the rail corridor is fixed in its position and that the tree group is likely to have been deliberately planted near the rail corridor.</p>	
	<p>A1.3 Schedule of Trees</p> <p>Change Tree2</p> <p>Change TreeX</p>	<p>G083</p> <p>Rail corridor adjacent to 290 and 320 Gladstone Road Sth Mosgiel and 82 and 88 Gladfield Road East Taieri.</p> <p>Approx 397 km Main South Line</p>	<p>Oppose</p>	<p>The proposed new boundaries for oak tree group G083 are dramatically different from the existing boundary. The existing tree group is marked as a single green dot, whilst the revised mapping covers an approximately 640m length of rail corridor and includes 69 trees. The eastern edge of the revised boundary is situated approximately 100m to west of the existing dot marking the position of G083. The shape differences between the existing and proposed tree group boundaries are so great, as to justify the treatment of the proposed boundaries as a proposed addition to the tree schedule.</p> <p>A STEM assessment was carried out on the tree group in 2001. Trees were identified as being over 100 years of age and around 21-26m in height with a circumference of 4.5m measured 1.2m above ground level. Trees were assessed as having an overall point value of 183.</p> <p>KiwiRail is of the view that tree group G083 has not gone through an appropriate rescreening process that ensures the remapped tree group fits the criteria for scheduling identified in policy 2.4.1.2. Concern is raised that risk of damage to existing rail infrastructure, has not been given the same attention as potential risks to road infrastructure.</p> <p>General comments raised under G082 (Submission point 25) also apply to G083.</p>	<p>Remove G82 from Schedule A1.3</p>